



DATE: June 18, 2019
TO: City Council
FROM: City Manager
SUBJECT: Approval of Round 1, Tier 2 Commercial Cannabis Permit for Always on Time Consulting and Precision Apothecary

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment II) issuing a Commercial Cannabis Permit to the following cannabis companies: Always on Time Consulting (Microbusiness) Precision Apothecary (Microbusiness).

SUMMARY

Pursuant to HMC Section 6-14.12 (b)¹, following the review and evaluation of commercial cannabis permit applications, the City Manager shall prepare a report to the City Council and provide a recommendation regarding selection of permittees. The City Council approved six of eight recommended companies for Commercial Cannabis Permits on May 7, 2019. The Council continued the item for the remaining two companies to allow for investigations into accusations against both company's CEO Doug Chloupek. Following these investigations, staff has cleared Mr. Chloupek of the accusations.

This report recommends two microbusiness companies for a Commercial Cannabis Permit (CCP) as described above. No additional retail dispensary uses are being recommended at this time.

BACKGROUND

On October 30, 2017, the City Council adopted Ordinance 17-13, adding Article 14 to Chapter 6 of the Hayward Municipal Code², which established the request for proposals process by which the City will select commercial cannabis businesses.

The first RFP for Commercial Cannabis Businesses was issued on December 8, 2017, with applications due on January 12, 2018. At that time, the City received 77 total applications for

¹ Review of Cannabis Applications:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH6BUPRTR_ART14COCABU_S6-14.12REAP

² Commercial Cannabis Businesses:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH6BUPRTR_ART14COCABU

commercial cannabis companies. Four of these applications did not meet the background check requirements of the City's commercial cannabis program. The remaining 73 applications were then sent to neutral, third-party review by City consultants HdL and ICF. Application review was completed in early May and the top scoring applicants were invited to participate in interviews with internal City staff. Those applicants that passed the interview panel were recommended for cannabis permits. In June and July of 2018, the City Council approved the first round of commercial cannabis permits for 15 businesses and allowed applicants six months to identify a proposed location and submit applications for land use entitlements.

Since Council approved the first-tier applicants in 2018, staff has received a significant volume of phone calls and emails from applicants and potential applicants for Commercial Cannabis Permits looking to reapply to establish a cannabis business in Hayward. Citing continued interest from commercial cannabis operators, in January 2019, the City Council directed staff to have an Interview Panel conduct interviews with a second tier of non-dispensary applicants from the first RFP process, as well as to initiate a second RFP process to solicit additional cannabis operators within 12 months.

In April 2019, the Interview Panel completed the interview process for the second-tier, non-retail applicants and forwarded that recommendation to the City Manager for review. The eight applicants currently being recommended for commercial cannabis permits represent delivery, distribution, cultivation, microbusiness and manufacturing activities. No testing laboratory applicants were included in Tier 2, as the only application received for that business type was already awarded a permit in 2018.

DISCUSSION

Applicant Selection: Applications were evaluated based on the Council approved criteria, which includes the following:

- Business Plan and Operations (250 points)
- Management Experience (150 points)
- Safety and Security Plan (150 points)
- Community Benefits (150 points)
- Product Testing and Safety (100 points)
- Environmental Plan (100 points)
- Labor and Employment Practices (100 points)

Applications were scored and ranked out of 1,000 points. Based on the overall distribution of scores, the City Council established a minimum score of 500 for companies to advance to the Tier 2 interview process. Thirteen applicant teams qualified for the Tier 2 interview process, based on the numerical scores that they received during the written application review process. The number of applicants that advanced to Tier 2 interviews is listed in Table 1, broken down by business type.

TABLE 1: Score Ranges and Interview Thresholds

Business Type	Score Range	Score Threshold	Advancing Applicants
Cultivation	239-798	500	1
Manufacturing	385-798	500	4
Distribution	578.5-890	500	3
Microbusiness	170-755	500	4
Delivery	349-702	500	1

Interview Process: The mandate of the Interview Panel was to facilitate a discussion with the applicant teams that would clarify their proposed business activities and qualifications, and then provide recommendations to the City Council on which applicants were most qualified to successfully operate a cannabis business in the City of Hayward. Of the 13 Tier 2 applicants, 10 were interviewed and three voluntarily withdrew from consideration.

The Interview Panel held one-hour interviews with each of the ten applicant teams over a three-day period on March 25 and 26 and April 2, 2019. Each interview was structured around a series of questions to gather information about any changes to the applicant's management team or updates to their business plan, and to solicit additional details about key aspects of the applicant's proposed cannabis operations. The questions related to three critical sections of their applications: (1) Team and Experience; (2) Business Plan and Operations; and (3) Safety and Security Plan.

Upon completion of each interview, the Panel discussed the adequacy of the applicant's responses in each of the three domains and jointly determined whether the applicant should be recommended for award of a commercial cannabis permit in the City of Hayward.

Panel Recommendation: Based on the selection criteria articulated by the Hayward City Council, the Interview Panel unanimously recommended awarding commercial cannabis permits to 8 of the 10 applicants that were interviewed during the Tier 2 application process. On May 7, 2019 the City Council approved 6 of 8 recommended Round 1, Tier 2 companies for Commercial Cannabis Permits. The approval of the remaining two businesses was continued to allow for staff to investigate allegations against those businesses. A brief summary of these two businesses, including their proposed business plans, community benefits, and labor and employment practices are included as Attachment III.

TABLE 2: Round 1, Tier 2 Commercial Cannabis Permits

Applicant Name	Type	Interview	Recommendation
Baldwin Partners LLC	Distribution	No Interview	Withdrew
Hayward Industrial Operations	Distribution	No Interview	Withdrew
Doja Dash	Microbusiness	No Interview	Withdrew
BAS Research	Manufacturing	03/25/2019	Awarded
Empress Extracts	Manufacturing	03/25/2019	Awarded
Gupreet Singh	Manufacturing	03/25/2019	Awarded
CBRA, Inc.	Delivery	03/26/2019	Awarded

Meristematic, Inc.	Cultivation	03/26/2019	Awarded
Mijosa, LLC	Distribution	03/26/2019	Awarded
Always <u>on</u> Time Consulting	Microbusiness	04/02/2019	Award Permit
Precision Apothecary	Microbusiness	04/02/2019	Award Permit
Cypress Ventures	Manufacturing	03/25/2019	No Permit
MDLM Consulting	Microbusiness	04/02/2019	No Permit

Allegations against Doug Chloupek

On the night of May 6, 2019, the City Council and staff received an email and memo from TransparentCannabis@gmail.com³ regarding Doug Chloupek, CEO of Precision Apothecary and Always on Time Consulting (Attachment IV) that included screenshots from Mr. Chloupek’s personal, public Facebook profile. The screenshots included several posts from 2016 through 2018 referencing cannabis cultivation operations in Hayward. Given the contents of this email, staff recommended the City Council table the approvals for Precision Apothecary and Always on Time Consulting to allow for the City to investigate and interview Mr. Chloupek.

On May 16, 2019 the Hayward Police Department met and interviewed Mr. Chloupek at his building in Hayward. The Police Department concluded that the building did not have the appearance of any recent cannabis related activity. In their interview, Mr. Chloupek explained that he is involved with legal cannabis operations through his business in other cities and is not currently involved in any cannabis operations in the City.

Regarding the Facebook posts, Mr. Chloupek claimed he was a consultant assisting a client with the posts. Mr. Chloupek also indicated that his prior cannabis experience was through medical cannabis as allowed through Prop. 215. Mr. Chloupek has no record of prior investigations related to drug activity.

Following this investigation, the City Manager’s Office, City Attorney’s Office, and Hayward Police Department concluded that there is not enough evidence to substantiate the claims made against Mr. Chloupek in the email and memo. Therefore, staff is recommending the City Council issue a Commercial Cannabis Permit to both of Chloupek’s companies Precision Apothecary and Always on Time Consulting.

FISCAL IMPACT

The businesses approved through the Commercial Cannabis Permit Program will provide significant investments in existing industrial and commercial spaces that will generate revenues related to provision of building permits for tenant improvements, annual renewal of the cannabis permit, and sales tax revenues.

³ Staff is unable to verify the author of the email and memo. The email lists the name Ash Cole, while the attached memo references Hector Villasenor as the word file author. Villasenor was denied a first round Retail Dispensary Commercial Cannabis Permit for his company Calgreen Farms.

Cannabis businesses are required to pay a local six percent tax rate on gross receipts. Staff is unable to provide a realistic estimate of these revenues as local, reliable financial data for this new industry is currently unavailable. Staff will be able to better forecast this revenue as cannabis businesses in the City open and begin to remit taxes.

In January 2019, City Council authorized a one-time General Fund appropriation of \$70,000 to fund ICF to conduct interviews and other related program costs. The City will require applicants who went through the interview process to resubmit their \$5,000 deposits, which will reimburse the General Fund for these application processing expenses.

ECONOMIC IMPACT

Each of the applicants being recommended for approval have articulated the desire to hire local Hayward residents and to pay them a livable wage. From the information provided in each application and through the interview process, these eight companies plan to hire an estimated sixty (60) to 120 new jobs. These jobs will impact the City as these employees pursue their lives in the Hayward community and therefore contribute to the local economy while also remitting City sales, property, utility user, and other City levied taxes and fees.

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

NEXT STEPS

Following approval of the attached resolution, staff will process these applications and confirm to the State Bureau of Cannabis Control that each has been approved to operate a cannabis business within the City.

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